courts have been careful to disregard the separate corporate entity of an agency through which the municipality has chosen to act in order to evade a limitation on its power to contract. The constitutional limitation on municipal indebtedness was intended to protect the taxpayer from extravagant expenditures. If the corporate entity of the Bridge Company in this case is allowed to defeat the constitutional provision as to the councilmanic debt of the city of Pittsburgh, it will encourage schemes to evade the law. This view, combined with the fact that the city is ultimately liable for the debt which it must pay in order to avoid suit or loss of the property, as the case may be, has influenced courts to disregard the entity of corporations owned or created by municipal bodies. *Gold* v. *City of Peoria,* 65 Ill. App. 602; *Orvis* v. *Park Com'rs of Des Moines,* 88 Ia. 674; *Browne* v. *Boston,* 179 Mass. 321; *Ironwood Water Works* v. *Trebilcock,* 99 Mich. 454; *Voss* v. *Waterloo Water Co.,* 163 Ind. 69; DILLON, MUNICIPAL CORPORATIONS (5 Ed.), § 199; GRAY, LIMITATIONS ON TAXING POWER AND PUBLIC INDEBTEDNESS, § 2150; 14 COL. LAW REV. 70. The decision in the principal case applies the better rule, being supported alike by expediency and authority.

NEW TRIAL—NEWLY-DISCOVERED EVIDENCE.—In a suit concerning the location of a boundary, one of plaintiff's witnesses testified to the location of the section-mark from his recollection of the location of his son's grave. The plaintiff had a verdict. After the death of this witness defendant moved for a new trial on the ground of newly-discovered evidence, stating in his affidavit that he had dug up the ground around the spot indicated as the situation of the grave, and had found no traces there of any such grave. In answer to the objection that such evidence was impeaching, and could not therefore be the basis for a new trial, *held,* that such evidence was also admissible to contradict a witness upon a material point, and might therefore be cause for allowing a new trial. *Dobberstein* v. *Emmet County* (Iowa, 1916), 155 N. W. 815.

It is a general principle that a new trial will be awarded for newly-discovered evidence only where such evidence probably will change the result upon the next trial. 2 ELLIOTT'S GENERAL PRACTICE, 1160; 2 THOMPSON, TRIALS, 2028; *Parsons* v. *Lewiston, Brunswick & Bath Street Railway,* 96 Me. 503. As a corollary to this rule it has been decided that a new trial will not be awarded for newly-discovered evidence that will merely be admissible to impeach a witness. *Morrow* v. *C., R. I. & P. Ry. Co.,* 61 Iowa, 487; *Blake* v. *Rhode Island Company,* 32 R. I. 213; 14 ENCYC. PL. & PR. 807. But where the evidence will be admissible for another purpose, a new trial will be granted, even though the evidence may incidentally impeach a witness. *Alger* v. *Merritt,* 16 Iowa, 121; *Murray* v. *Weber,* 92 Iowa, 757, 60 N. W. 492; 14 ENCYC. PL. & PR. 810. The present case shows what is generally the practical effect of granting a new trial for new evidence that is at once impeaching and contradicting in its effect. Although the testimony of the deceased witness at the former trial will be admissible upon the new trial under a well-known exception to the hearsay rule (*Packard* v. *McCoy,* 1 Iowa, 530; 2 WIGMORE, EVIDENCE, §§ 1401–1413), yet it is doubtful if the plaintiff will avail himself of its use, unless he doubts the truth of the newly-

discovered evidence. Therefore, any difference in result that may be expected upon the new trial will be caused rather by the absence of the formerly uncontradicted evidence rather than by the effect of the newly-discovered evidence upon the jury.

PARENT AND CHILD—EMPLOYERS' LIABILITY ACT AS AFFECTING FATHER'S RIGHT TO RECOVER FOR INJURIES TO CHILD.—Plaintiff's minor son, while engaged as an employee of defendant in interstate commerce, was injured through the negligence of the defendant. *Held,* the father can maintain an action independent of the son's right under the Federal Employers' Liability Act, for services and earnings of said minor son up to the time of his majority. *Nelson* v. *Illinois Central R. Co.* (Iowa 1915), 155 N. W. 169.

At common law the parent had a right to recover for loss of services and earnings up to twenty-one when a minor child was wrongfully injured. *Hussey* v. *Ryan,* 64 Md. 426, 54 Am. Rep. 772. The principal case supports the doctrine that such common law right is not removed by the Federal Employers' Liability Act. The same question arose in *Tonsellito* v. *N. Y. Cent. & H. R. R. Co.,* 87 N. J. Law 651, 94 Atl. 804. The court said, "But we do not construe the federal act as repealing either expressly or impliedly the father's right of action as it existed at common law. It purports to deal only with cases involving the death of the employee, and in the absence of an intent, clearly expressed or necessarily implied, that congress intended to take away by this corrective and remedial act the legal status of third parties as fixed by the immemorial rules of the common law, we must assume that such rights still subsist unimpaired." The Massachusetts court has asserted the same doctrine with reference to the Workmen's Compensation Act of the state in *King* v. *Viscoloid Co.,* 219 Mass. 420, 106 N. E. 988. Vide 13 MICH. LAW REV. 428.

POWERS—EXERCISE OF A NON-EXCLUSIVE POWER TO APPOINT AMONG CHILDREN.—By will a life-estate in certain property was given to X, together with a power to appoint it to his wife and heirs at law; in default of appointment, the property was to go to them according to the law of descent in force in Kentucky at that time. By will X appointed $1,000 to each of his brothers and sisters, and the rest, nearly $150,000, to trustees for the use of his wife for life, and then for his children as she should appoint by will. The distribution was made according to the terms of the will. The wife died three years later, having made an appointment of all the property. This action was brought by the heirs-at-law of X to have the appointment made by his will set aside, on the ground that under the power through which he made the appointment he was bound to appoint a substantial share to each of them, and that the $1,000 each had received was not such substantial share. *Held,* the appointment was invalid, being under a non-exclusive power, and not giving to each member a substantial share. *Barret's Ex'rs* v. *Barret* (Ky. 1915), 179 S. W. 396.

In reviving the illusory appointment doctrine the Kentucky court has had recourse to an argument almost as old as the subject of appointments.